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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,200

09/29/2003

Donald A. Stefan

STE-100

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7590

. 12/22/2004

RUSSELL J. EGAN

SUITE 120

908 TOWN & COUNTRY BLVD.

HOUSTON, TX 77024-2221

EXAMINER

CHERRY, STEPHEN J

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/674,200	DONALD A. STEPHAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen J. Cherry	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, and 6-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because the numerals and arrows are hand drawn, and of inconsistent width. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 5, and 10-11 are objected to because of the following informalities:

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1. In claim 5, because the phrase, "ac vs. dc" is in paranthesis, it is not clear if it is intended to be limiting of the claim.

2. In preamble of claim 10, it is not clear how the phrase, "an Internet connection, a web site for customer access, data analysis, and an emergency communication link to the customer and field service provider", is related to the previous phrase. Additionally, the preamble lacks a transitional phrase, such as comprising.

3. In claim 11, the meaning of the quotation marks around the word, "near" and "chart" is unclear.

4. In claim 9, "the web site" lacks antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as

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to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 2 recites the broad recitation "current transformer means", and the claim also recites "including AC and Hall effect DC" which is the narrower statement of the range/limitation.

Claim 8 and 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8 and 20, the phrase "any other pertinent information" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "any other pertinent information"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,031,354 to Wiley et al.

Claim 11 recites, as anticipated by Wiley:

11. An electrical battery monitoring method providing DC measurements in "near" real time providing up to the minute, continual measurements during the battery's three states, float, discharge, and recharge, said method comprising the steps of: constantly measuring the respective batteries to provide measurement data to build a curve with enough resolution to "chart" the battery ('354, col. 16, line 3 and fig. 12e); monitoring the system's battery charger ('354, col. 16, line 39); monitoring the temperature of individual batteries ('354, fig. 12e); monitoring ambient temperature ('354, col. 10, line 1); monitoring equipment load; and monitoring incoming electrical power from a commercial source ('354, fig. 3, 60 monitored by 40).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-4, 6-7, 9-10, 12-19, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,031,354 to Wiley et al in view of U.S. Patent 6,732,191 to Baker.

The claims recite, as disclosed by Wiley:

a plurality of individual input modules each connected to a respective power source and having means to receive an analog voltage input and to convert said analog signal to a digital form ('354, col. 10, line 2, and fig. 1, 10-14); a central controller means ('354, 2) connected to collect data from each input module and, at scheduled intervals, send that data to server means containing primary system software capable of performing data comparisons ('354, col. 8, line 64), charting trends ('354, col. 10, line 6), predicting failures ('354, col. 10, line 1), planning and scheduling service visits ('354, col. 7, line 53), and archiving data for future reference ('354, col. 9, line 64), said software also providing near real time reports ('354, col. 10, line 47), regular monthly reports ('354, col. 9, line 41), and alarm notifications which can be sent via E-mail, telephone land lines ('354, col. 10, line 41), cell phone, PDA, or pager.

DC battery lead attachment means ('354, col. 20, line 35);

AC input voltage power transformer means (inherent in charger of fig. 9);

temperature thermistor means attached to each battery being monitored ('354, col. 17, line 38); and

current transformer means ('354, 156) including AC and Hall effect DC.

wiring harness means in each said input module means, each said battery being monitored is attached to one end of said wiring harness means the other end of which is

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attached to connector means of said input module, the number of wires in said wiring harness means being one more wire than the number of batteries being monitored ('354, fig. 3, connections of battery bank 50).

additional sensor means attached to said input modules through said harnesses ('354, fig. 3, connections to 40).

microprocessor means to collect data from said input modules, store and summarize said data, said data including: system data ('354, col. 9, line 20), power measurements ('354, col. 4, line 6), date/time stamps ('354, col. 24, line 49), and module information embedded in the data ('354, col. 9, line 45); and

a two-way communication link ('354, col. 7, line 31).

said software is embedded in each said input module means and said central controller means ('354, controllers 10-14 use software of 20 and 32);

one of said input module means attached to each sensor and set for the voltage type and range in which it will be collecting data ('354, fig. 3).

However, Wiley does not disclose the use of a server.

The claim further recites the use of a web server, as disclosed by Baker (fig. 5).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the web server of Baker with the invention of Wiley to allow the end user to have a user friendly interface ('191, col. 1, line 49).

### ***Conclusion***


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJC

  
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